

# **State of Alaska FY2003 Governor's Operating Budget**

## **Department of Community & Economic Development Banking, Securities and Corporations BRU/Component Budget Summary**

## **BRU/Component: Banking, Securities and Corporations**

(There is only one component in this BRU. To reduce duplicate information, we did not print a separate BRU section.)

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### **Component Mission**

The mission of the Division of Banking, Securities, and Corporations is to:

1. maintain a stable financial network in the state for the safe conduct of financial services;
2. protect securities investors;
3. provide businesses with a legal structure enabling commerce in the state.

### **Component Services Provided**

**Banking (Financial Institution Regulation):** regulates financial institutions that are chartered or licensed under state law.

- Charters, licenses, and supervises state-chartered commercial banks, mutual savings banks, credit unions, trust companies, bank holding companies, interstate branching, small loan offices, premium finance companies, Commercial Fishing and Agriculture Bank (CFAB), and Business and Industrial Development Corporations (BIDCOs); and accepts filings under the Model Foreign Bank Loan Act.
- Monitors all aspects of the regulated financial industry, including various financial ratios and management policies through safety and soundness examinations and from information gathered through other reporting by institutions. Makes suggestions to institutions to improve practices and policies. May require an institution to take corrective actions if the division finds material safety and soundness concerns.

**Securities Regulation:** administers the Alaska Securities Act, which deals with broker-dealers, investment advisers, and the securities and advice they sell.

- Regulates the offer and sale of securities in Alaska. Enforces the anti-fraud and disclosure requirements of the Alaska Securities Act. Regulation and enforcement provide a responsible marketplace that encourages the financing of legitimate business and industry in the state. Seeks to increase small business access to capital while assuring that investor protection is not compromised.
- Regulates proxy solicitations for certain large ANCSA corporations with billions of dollars of assets, affecting thousands of Alaskans who are shareholders of these corporations. The Alaska Securities Act requires the filing of proxy statements and related materials, and provides authority for remedial action for violations of the Act and regulations.

**The Corporations Section:** provides legal recognition to a business by serving as a filing agency, assisting the private sector in processing documents in compliance with state law. Examines and files organization documents of corporations (domestic and foreign; non-profit and for profit), Limited Liability Companies, Limited Liability Partnerships, Partnerships, Cooperatives, and Professional Corporations, and documents to register Trademarks and Trade Names. Provides information and copies of documents on file by request.

### **Component Goals and Strategies**

Develop and maintain a stable and responsible state-chartered financial institution system to serve all of Alaska's communities, especially where the institutions draw their deposits and support.

- Monitor institutions for safety and soundness by regular, joint (federal and state) examination, and, where possible, recommend ways to improve the strength and responsiveness of state-chartered financial institutions, and to increase banking services.
- Increase the confidence of the public, the industry, and other state and federal regulators in the division reports of

safety and soundness examinations by seeking, attaining, and maintaining program accreditation and examiner certification by the Conference of State Bank Supervisors.

Provide effective investor protection against financial loss due to fraudulent and other illegal activities in the securities business, and efficiently serve the Alaska business and finance community legitimately seeking to raise capital.

- Improve services to the public and businesses by purchasing and installing the securities database funded in FY02, and by developing the capability to accept filings electronically and to provide public access to information on the Internet.
- Improve investor protection by maintaining a regular examination schedule of the sales practices of state investment advisers, and by investigating complaints and taking appropriate formal and informal action to enforce securities laws.
- Develop a better-informed investing public through an investor education program including financial literacy in schools programs, curriculum support to teachers, and web-based public educational information.
- Encourage capital formation by providing information to businesses regarding issuing securities in Alaska.

Create and maintain a friendly, helpful service for the general public and business organizations of all types and origins that want to organize and do business in Alaska.

- Improve efficiency in processing filed paperwork by redesigning and improving the corporations database and by installing automated equipment that will reduce processing time, and will improve the ability of the public to access information and make filings via the Internet.
- Increase the public's accessibility to file and receive corporate documents by accepting faxed documents and payments via credit cards or the Automated Clearing House System, and by publishing forms on the Internet that can be filled out and filed electronically.
- Improve service to the public by imaging documents currently in microfilm and microfiche, thereby greatly speeding the ability to respond to information requests and providing the ability to make access to these documents easy and direct over the Internet.

### **Key Component Issues for FY2002 – 2003**

**NEED FOR ADEQUATE RESOURCES** – The division's activities generate revenues equal to more than 6 times the division's appropriation. It is imperative that the division receives a sufficient share of these resources to be able to meet its mission of public service and protection.

- The federal government and the securities industry nationally have been critical of states for collecting fees far in excess of regulatory expenditures. This makes our fees vulnerable to congressional action. In fact, federal legislation was introduced to reduce the fees of the Securities and Exchange Commission, and a federal GAO report criticized states on this issue.
- While the division does not seek to spend all, or even most, of the funds its activities generate, the division does believe it has an obligation to provide a serious, effective, and efficient regulatory program using a reasonable part of its fee revenue.
- The division seeks funding to address major deficiencies in (1) providing electronic services to the public, (2) improving staff efficiencies through effective use of technology, (3) improving public protection through increases in investigative and legal services and through implementation of an examination schedule for state investment advisory firms, and (4) improving confidence and effectiveness by seeking accreditation by the Conference of State Bank Supervisors (CSBS).

**INCREASE USE OF MODERN TECHNOLOGY TO INCREASE SERVICE AND IMPROVE EFFICIENCY** – The division's data processing staff has been working hard with the section supervisor on a project to improve the corporations section database, to automate procedures, and to simplify work processes.

- To complete this effort in FY03, the division requires a significant upgrade to its computing and document imaging capabilities.
- This investment will pay dividends for years, and will allow the division to accept filings electronically and to provide improved public access to information via the Internet.
- This should allow the division to provide for continued expected growth in corporations section filings without the need for a commensurate increase in staff.
- The division also will acquire and install the new securities database in FY02, and maintain and update it with

maintenance funds requested in FY03 in order to provide public access to securities database information for the first time ever.

**IMPROVE INVESTOR AND DEPOSITOR PROTECTION PROGRAM** – Enforcement is a major part of what the banking and securities section does. In the last two fiscal years, the securities regulators received 118 securities complaints, issued 21 orders fining violators \$117,000, and helped Alaskan investors recover \$524,000. The division also may need to take actions against financial institutions that could include removal of officers and taking control of the institution, in extreme cases. The division is in serious need of improved investigative and legal services to support its enforcement actions.

- The division seeks to add an experienced investigator to its professional staff to work with examiners in developing a case for resolution or hearing.
- The division seeks funds to RSA to the Department of Law for a half-time attorney with expertise in banking and securities law to provide assistance in representing the division in enforcement cases, reviewing administrative orders for form and content, interpreting state and federal law, providing legal analysis of proposed legislation and regulations, and providing legal services related to financial institution failures and securities violations.
- Both of these increments will improve the quality of the division's investigations, will prevent backlogs from developing when all the examiners become involved with a complex case, and will improve investor and depositor protection which is the primary objective of the banking and securities section.

**IMPROVE STAFF TRAINING AND PROGRAM ACCEPTANCE AND EFFECTIVENESS** - A competent, well-trained professional staff is critical to accomplishment of the division's mission. Also, it is critical that the division's examinations and enforcement actions are recognized and accepted by federal and other state regulators.

- The division seeks funding to obtain accreditation of the bank regulation program by the Conference of State Bank Supervisors (CSBS). Currently, 44 other jurisdictions are accredited by CSBS. Training is one element CSBS considers, but it also reviews the entire program to determine if it meets national standards of excellence. Accreditation and examiner certification by CSBS will assure the industry that other state and federal regulators will accept Alaska examination reports. They accept them because accreditation and certification assures them our staff meets high standards of training and experience.
- The division has combined the banking and the securities examination staff and plans to provide cross training and experience to develop a more efficient, flexible examination staff.
- With the loss of one senior examiner in the budget process in FY02 and with the impending retirement of the division's most senior financial institution examiner in FY03, it is imperative that the division provide a high level of training to existing staff and to new staff expected in FY03 to make up for the loss.

## **Major Component Accomplishments in 2001**

**Banking:** Drafted and introduced as HB 106 a rewrite of several chapters in Title 6 to (1) bring statutes into compliance with major provisions of the Gramm-Leach-Bliley Act (GLBA), (2) provide state-chartered institutions with comparable powers of national institutions, and (3) maintain opt-in privacy protection for Alaskans. SCS CSHB 106(JUD) is now in the Senate Finance Committee. Also worked with a legislator to help draft for introduction as HB 157 a rewrite of the Trust Company Act that has not been revised since statehood. CSHB 157(JUD) am passed the House and is now in the Senate.

**Securities:** Received 70 securities and 10 ANCSA corporation proxy complaints; issued 12 enforcement orders imposing \$13,750 in fines; collected \$23,875 in fines from FY2001 and prior years' actions; and was instrumental in having \$345,106 returned directly to Alaska investors.

**Corporations:** Continued progress in complete in-house revision of corporations database and procedures with an ultimate objective of providing for electronic filings and implementation of a digital document environment to improve productivity and public service; added automatic check endorsing machine saving almost two hours per day in a clerk's time; eliminated data entry backlog for the first time in six years through the use of temporary employees and a reallocation of division staff.

The division's revenue in FY2001 was \$12,625.8, up 6% from FY2000 and 433% from FY1982. In FY2001, the division was authorized 26 positions compared to 25 positions in FY1982.

## Statutory and Regulatory Authority

AS 06 - Supervision of Banking and other Financial Institutions  
 06.01 Administration  
 06.05 Alaska Banking Code  
 06.10 Model Foreign Bank Loan Act  
 06.10 Mutual Savings Bank Act  
 06.20 Alaska Small Loans Act  
 06.25 Trust Companies  
 06.35 Uniform Common Trust Fund Act  
 06.40 Premium Financing Act  
 06.45 Alaska Credit Union Act  
 AS 10-File Administration Of Corps Associations, LLC's  
 AS 10.13-BIDCO's  
 AS 10.35 & 45.50 -Trademarks/Trade Names  
 AS 32.05-Filing of Limited Liability Partnerships  
 AS 32.11-Filing of Limited Partnerships  
 AS 34.55-Land Sales Act  
 AS 44.81-Examination of CFAB  
 AS 45.55-Supervision of Filing of Securities  
 AS 45.55/3 AAC 08.305-365-Proxy Solicitations of Native Corporations  
 AS 45.57-Public Disclosure Takeovers

## Key Performance Measures for FY2003

### Measure:

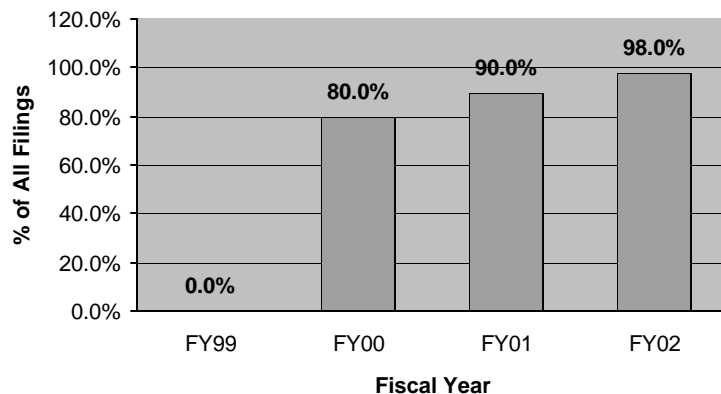
The number of members of the public who use forms provided by the division over the Internet for filing complaints and requests for exemptions as a percentage of all filings.

Sec 34(b)(1) Ch 90 SLA 2001(CSHB 250(FIN))

### Alaska's Target & Progress:

Beginning in FY99, the division created web-based forms for complaints and exemption filings to make it easier for the public to make these filings with the division and to standardize the information the division collects. The division's target for this measure is 98.5%. It will never be 100%, since some people do not have computers. Through September 30, 2001, the FY02 achievement was 98%, up from 90% in FY01.

**Percent of Complaints & Exemption Filings Using Web-based Forms (As of September 30, 2001)**



### Benchmark Comparisons:

Not applicable. There are no known benchmarks for this activity.

### Background and Strategies:

The division developed Internet-based forms to standardize filings and make it easier for Alaskans who want to file a complaint or an application for exemption from registration.

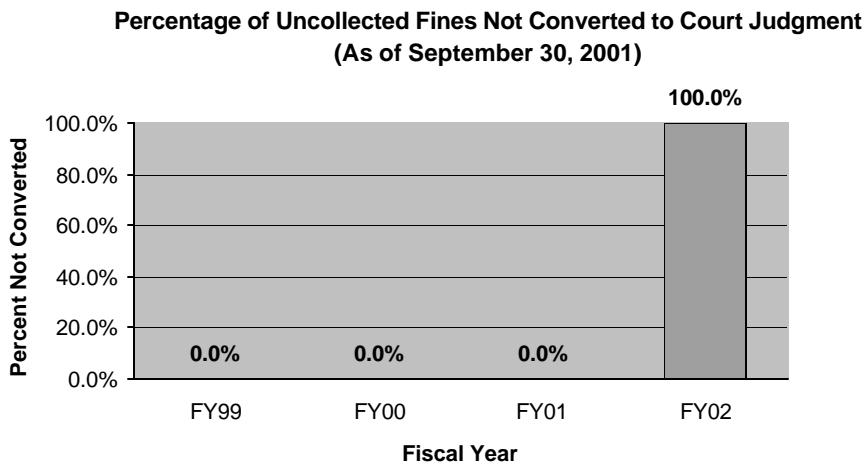
The strategy: to provide as much information and forms via the Internet as possible in order to improve the ease and accessibility for the public, and to make their availability known through Internet advertising, public meetings, and personal contacts.

**Measure:**

The percentage of uncollected fines that have not been converted to court judgment.  
Sec 34(b)(2) Ch 90 SLA 2001(CSHB 250 (FIN))

**Alaska's Target & Progress:**

Beginning in FY99 following a statutory change allowing for converting uncollected fines, the division initiated the practice of converting uncollected fines to court judgment to make it easier for the division to pursue securities violators who refuse to pay their fine, even when they reside outside of Alaska. The division's target for this measure is 0%. Through September 30, 2001, the FY02 percentage was 100%, up from 0% in FY01. However, the division expects to convert any of these FY02 fines to court judgment during this fiscal year, thus reducing the percentage back to zero.



**Benchmark Comparisons:**

There are no benchmarks for this activity, but the goal is either to collect or to convert to court judgment all levied fines, unless they are suspended for good cause.

**Background and Strategies:**

Sometimes respondents refuse to pay fines. In order to improve the division's ability to take collection actions against them through the courts of any state, the division may petition to have an administrative fine converted to a court judgment (called "reducing an administrative fine to judgment"). The U.S. Constitution provides that a court judgment from one state is given full faith and credit in all states, so the fines should then be collectible wherever the violators and their property are found. This authority was obtained through amendments to the Alaska Securities Act, effective October 1, 1999.

Strategy: With the change in the law, the division files the appropriate applications to Superior Court to convert uncollected fines to judgment. Once that is achieved, the division attempts to enforce the court's judgment and collect the fine. This is a relatively new process, and the first such application was filed in December 1999.

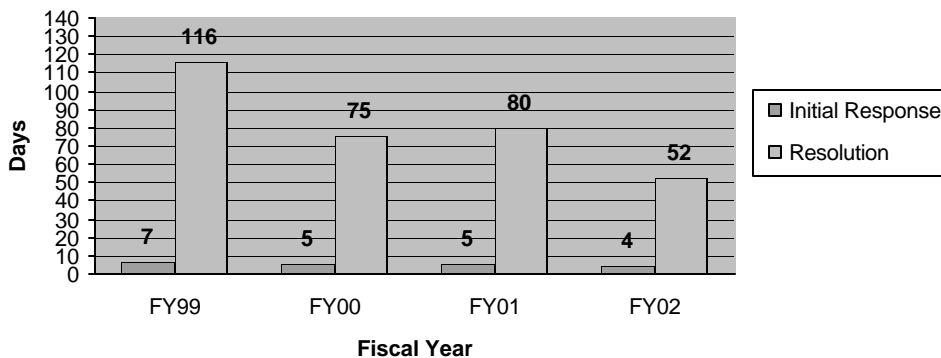
**Measure:**

The time taken to respond to and resolve complaints.  
 Sec 34(b)(3) Ch 90 SLA 2001(CSHB 250 (FIN))

**Alaska's Target & Progress:**

Beginning in FY99, the division initiated an effort to reduce the amount of time it takes to respond to an initial complaint and to resolve the complaint. Timeliness is important to those who file a complaint with the division. The division's target for this measure is 2 days for the initial response, and 90 days for the resolution. The division recognizes that complex cases may take longer to resolve due to factors beyond the division's control. The division's target is for an average resolution time, with the understanding that individual cases may take longer. Through September 30, 2001, the FY02 achievement for initial response time was 4 days, down from 5 days in FY01. The FY02 achievement for resolution time was 52 days, down from 80 days in FY01.

**Days for Initial Response and for Resolution**  
**(As of September 30, 2001)**

**Benchmark Comparisons:**

Not applicable. There are no benchmarks for this measure. The time it takes to resolve complaints is affected by the complexity of the case.

**Background and Strategies:**

Assisting Alaskans with their investment problems by responding to their complaints, and taking actions to resolve those complaints is a critical part of the division's efforts to protect investors. Timeliness is an important aspect of that process.

**Strategy:** The division promptly sends a postcard to a complainant acknowledging receipt of the complaint and giving a file number for future reference. Complaints are then put into a database and the division interviews the complainant to obtain alleged facts and related documents.

## Banking, Securities and Corporations

## Component Financial Summary

All dollars in thousands

	FY2001 Actuals	FY2002 Authorized	FY2003 Governor
<b>Non-Formula Program:</b>			
<b>Component Expenditures:</b>			
71000 Personal Services	1,500.1	1,588.8	1,733.1
72000 Travel	56.5	76.3	80.3
73000 Contractual	222.1	212.1	355.0
74000 Supplies	14.2	19.9	21.9
75000 Equipment	16.1	6.1	9.1
76000 Land/Buildings	0.0	0.0	0.0
77000 Grants, Claims	0.0	0.0	0.0
78000 Miscellaneous	0.0	0.0	0.0
<b>Expenditure Totals</b>	<b>1,809.0</b>	<b>1,903.2</b>	<b>2,199.4</b>
<b>Funding Sources:</b>			
1007 Inter-Agency Receipts	0.8	1.7	3.0
1053 Investment Loss Trust Fund	39.8	0.0	0.0
1156 Receipt Supported Services	1,768.4	1,901.5	2,196.4
<b>Funding Totals</b>	<b>1,809.0</b>	<b>1,903.2</b>	<b>2,199.4</b>

## Estimated Revenue Collections

Description	Master Revenue Account	FY2001 Actuals	FY2002 Authorized	FY2002 Cash Estimate	FY2003 Governor	FY2004 Forecast
<b>Unrestricted Revenues</b>						
Unrestricted Fund	68515	10,799.4	10,764.1	10,764.1	10,628.3	10,770.1
<b>Unrestricted Total</b>		<b>10,799.4</b>	<b>10,764.1</b>	<b>10,764.1</b>	<b>10,628.3</b>	<b>10,770.1</b>
<b>Restricted Revenues</b>						
Interagency Receipts	51015	0.8	1.7	1.7	3.0	3.0
Receipt Supported Services	51073	1,768.4	1,901.5	1,901.5	2,196.4	2,196.4
Investment Loss Trust Fund	51393	39.8	0.0	0.0	0.0	0.0
<b>Restricted Total</b>		<b>1,809.0</b>	<b>1,903.2</b>	<b>1,903.2</b>	<b>2,199.4</b>	<b>2,199.4</b>
<b>Total Estimated Revenues</b>		<b>12,608.4</b>	<b>12,667.3</b>	<b>12,667.3</b>	<b>12,827.7</b>	<b>12,969.5</b>



## Banking, Securities and Corporations

### Proposed Changes in Levels of Service for FY2003

One new fee-supported position is requested. The division needs an Investigator III to assist the examiners in investigating alleged violations of law and in compiling and organizing evidence to support enforcement action. Securities complaints have increased 75% in the last two years. Examiners who must set aside other responsibilities to conduct the investigation now conduct investigations, but have little or no formal training in investigation techniques. This position will give the division trained investigative staff to process cases more quickly and efficiently through to resolution. The position is to be funded with fees through receipt supported services.

The division seeks an increment to provide funds for the maintenance/upgrade agreement with the securities database vendor. The database will be purchased in FY02 with a FY02 capital appropriation, and regular vendor support is required to fix problems and provide updates to reflect changes in federal and state laws and procedures. This request is to be funded with fees through receipt supported services.

The division seeks an increment to provide funds for an RSA with the Department of Law for legal services of a half-time attorney. The division has no attorney on staff and needs the Department of Law to develop and provide expertise in banking, corporation, and securities law. Administrative orders, hearings, and other activities subject the State to legal proceedings that require the division to obtain expert legal support, similar to that of the other regulatory agencies in the department. This request is to be funded with fees through receipt supported services.

The division will participate in a department capital budget request that seeks to provide funds to convert from microfilm and microfiche to images and paper files to images. This is part of the project to improve public access to information and increase staff efficiency through technology and e-commerce. This will allow the public to access documents directly, and will shorten the response time to reply to information requests. This request is to be funded with fees through receipt supported services.

The division seeks an increment to provide funds to obtain accreditation of the division's bank examination program and certification of examination staff by the Conference of State Bank Supervisors (CSBS). Currently 44 jurisdictions in the U.S. are accredited by CSBS, and accreditation assures the State that other state and federal regulators will accept examination reports by the division's examiners. Without this assurance, industry could be subject to increase regulatory burdens. This request is to be funded with fees through receipt supported services.

An increment is requested to cover rent increases in FY03 in the Community Building in Juneau. This request is to be funded with fees through receipt supported services.

### Summary of Component Budget Changes

#### From FY2002 Authorized to FY2003 Governor

*All dollars in thousands*

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
<b>FY2002 Authorized</b>	<b>0.0</b>	<b>0.0</b>	<b>1,903.2</b>	<b>1,903.2</b>
<b>Adjustments which will continue current level of service:</b>				
-Year 3 Labor Costs - Net Change from FY2002	0.0	0.0	53.9	53.9
<b>Proposed budget increases:</b>				
-Securities Database Maintenance	0.0	0.0	45.0	45.0
-Community Building Rent Increase	0.0	0.0	19.8	19.8
-New Investigator III	0.0	0.0	79.7	79.7
-Department of Law increased	0.0	0.0	71.5	71.5

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
services				
-Conference of State Bank Supervisors (CSBS) Accreditation	0.0	0.0	25.0	25.0
-Increase IA for Dept of Revenue	0.0	0.0	1.3	1.3
<b>FY2003 Governor</b>	<b>0.0</b>	<b>0.0</b>	<b>2,199.4</b>	<b>2,199.4</b>

**Banking, Securities and Corporations****Personal Services Information**

<b>Authorized Positions</b>		<b>Personal Services Costs</b>		
	<b><u>FY2002</u></b>	<b><u>FY2003</u></b>		
	<b><u>Authorized</u></b>	<b><u>Governor</u></b>		
Full-time	27	28	Annual Salaries	1,296,750
Part-time	0	0	COLA	30,424
Nonpermanent	0	0	Premium Pay	8,530
			Annual Benefits	471,232
			<i>Less 4.09% Vacancy Factor</i>	(73,836)
			Lump Sum Premium Pay	0
<b>Totals</b>	<b>27</b>	<b>28</b>	<b>Total Personal Services</b>	<b>1,733,100</b>

**Position Classification Summary**

<b>Job Class Title</b>	<b>Anchorage</b>	<b>Fairbanks</b>	<b>Juneau</b>	<b>Others</b>	<b>Total</b>
Administrative Clerk II	0	0	1	0	1
Administrative Clerk III	1	0	6	0	7
Administrative Manager II	0	0	1	0	1
Analyst/Programmer III	0	0	1	0	1
Analyst/Programmer IV	0	0	1	0	1
Business Reg Examiner	1	0	3	0	4
Division Director	0	0	1	0	1
Financial Instit Exam II	1	0	1	0	2
Financial Instit Exam III	2	0	0	0	2
Financial Instit Exam IV	0	0	1	0	1
Investigator III	0	0	1	0	1
Records & Licensing Spvr	0	0	1	0	1
Secretary	0	0	1	0	1
Securities Examiner I	0	0	3	0	3
Securities Examiner II	0	0	1	0	1
<b>Totals</b>	<b>5</b>	<b>0</b>	<b>23</b>	<b>0</b>	<b>28</b>